

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of February 3, 2009 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 14-1437.

#### **Withdrawal of the Finality of the Current Office Action**

Applicants acknowledge with appreciation the withdrawal of the finality of the current Office Action according to the Interview Summary of April 30, 2009.

#### **Claim Rejections – 35 USC § 103**

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Patent Application 2003/0225600 to Slivka, *et al.* (hereinafter Slivka) in view of Non-Patent Literature "Travelers Leave for Portugal After 24-Hour Wait for Plane," by Ingram (hereinafter Ingram), and in further view of Non-Patent Literature "Optimal Overbooking," by Arthur *et al.* (hereinafter Arthur) and Quick Stats, "NFL Tie-Breaker Procedures" (hereinafter Quick Stats), and further in view of U.S. Published Patent Application 2002/0082878 to Boies, *et al.* (hereinafter Boies).

Although Applicants respectfully disagree with the rejections, Applicants have amended Claim 1 to facilitate prosecution of the instant application. Applicants have also added Claims 27-29. The claim amendment and added claims are fully supported by the original disclosure and no new matter has been introduced.

More specifically, Claim 1 has been amended to require that the passenger data and the flight operations data be processed based upon a rule for arranging the determined denied boarding candidates according to a descending revenue impact to the airline. The rules for arranging the determined denied boarding candidates according to passenger frequent flyer status and for arranging the determined denied boarding candidates according to a lifetime value of each passenger are presented in new

dependent claims 27 and 29. As discussed with the Examiner during a recent telephone interview, Boies does not disclose arranging denied boarding candidates according to a descending revenue impact to the airline (see also the Interview Summary of April 30, 2009). The Examiner's consideration during this Interview is appreciated. As discussed during the interview, Boies at Fig. 4 "430" does not disclose arranging passengers according to a descending revenue impact. This can be seen from a review of the column "Seat Class 430" where the first row in this column is "Coach," the second row in the column is "First Class," and the third row in the column is again "Coach." Clearly, the order Coach-First Class-Coach is not a descending order, since "First Class" would then be at the top of the column and would not be placed between two "Coach" entries. It was also discussed that Boies does not in fact show revenue impact at all, but rather a system for making reservations consistent with a requested category of seating. There is no discussion in Boies of arranging seating in any other manner than within a broad category such as "First Class," "Coach," "aisle," window," or "exit row." This is different from the invention, which arranges each passenger, including passengers within such classes, according to a descending revenue impact to the airline.

It was acknowledged in the third paragraph on page 5 of Office Action that Slivka in view of Ingram and in view of Arthur does not disclose arranging passengers according to a descending revenue impact to the airline. Slivka in view of Ingram and in view of Arthur and further in view of Boies thus also does not disclose this limitation.

In addition, Applicants resubmit the following arguments with regard to Slivka:

- The actual fare amount the disrupted passenger previously paid for the disrupted flight as disclosed in Slivka is different from the remaining flight ticket value of the present invention. For example, flights can comprise long legs and short legs, and the remaining flight ticket value can be different depending on whether the remaining leg is long or short. It is not clear how the fare amount the disrupted passenger previously paid for the disrupted flight

would suggest the remaining flight ticket value because the ticket value remaining after the passenger has been disrupted does not seem to be related to the fare amount the disrupted passenger previously paid for the disrupted flight.

- Although Slivka mentions minimizing the provider cost of moving passenger to a different airline and rebooking the alternative itinerary in a lower fare class as that of the identified PNR, Slivka does not disclose taking the rebooking cost of each denied boarding candidate into consideration in deciding which candidates will be boarded when seats on a commercial airline flight flown by a commercial airline are overbooked.
- The total value of each passenger impacted by the disruption of a particular flight (including impact on flight tickets and other related services such as hotel and rental car reservations) as disclosed by Slivka is not the same as the lifetime value of a passenger to a particular airline which is not necessarily related to the particular interrupted flight.
- Customer Relationship Management (CRM) is a specific term applied to processes implemented by a company to handle its contact with its customers. CRM data refer to all the information collected by the processes. Determination of the impact of schedule changes and operational disruptions on passenger flow may be a source of collecting information for the CRM data. However, Slivka does not disclose using already existing CRM data in deciding which candidates will be boarded when seats on a commercial airline flight flown by a commercial airline are overbooked.

Accordingly, the cited references, alone or in combination, fail to disclose or suggest each and every element of Claims 1 and 28. Applicants therefore respectfully submit that Claims 1 and 28 define over the prior art. Furthermore, as each of the remaining claims depends from Claims 1 or 28 while reciting additional features,

Applicants further respectfully submit that the remaining claims likewise define over the prior art.

Applicants thus respectfully request that the claim rejections under 35 U.S.C. § 103 be withdrawn.

### **CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: May 4, 2009

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